

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**FCSTONE MERCHANT SERVICES,
LLC**

Plaintiff,

V.

**SGR ENERGY, INC., ST SHIPPING &
TRANSPORT PTE LTD, and THOMAS
SAN MIGUEL, individually,**

Defendants.

[illegible]

Civil Action No. 4:20-cv-03693

AGREED MOTION FOR ORDER ENTERING SECOND
AMENDED DISCOVERY SCHEDULE AND TRIAL SETTING

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Plaintiff, FCStone Merchant Services, LLC (“FMS”) and ST Shipping & Transport PTE LTD (“STS”) (collectively, the “Filing Parties”)¹ file this Agreed Motion for Entry of Second Amended Scheduling Order and respectfully states as follows:

1. FMS filed this lawsuit against STS, SGR and TSM (collectively, the “Defendants”) on October 27, 2020. Dkt. No. 1.
2. FMS filed its First Amended Complaint on December 11, 2020. Dkt. No. 14.
3. The Defendants each filed motions to dismiss the First Amended Complaint.
4. SGR has a pending Counterclaim against FMS. Dkt. No. 50.

¹ As discussed herein, counsel for SGR Energy, Inc. (“SGR”) and Thomas San Miguel (“TSM”) have not responded to any recent attempts to confer about discovery and this case, despite multiple attempts by phone and e-mail over several months. Thus, SGR and TSM have not joined this Motion.

5. The Parties participated in a scheduling conference before Magistrate Judge Frances H. Stacy on April 15, 2021 which set the trial of this matter for November 7, 2022. Dkt. No. 42.

6. By an Order dated July 14, 2021, this Court denied SGR's Motion to Dismiss, denied in part and granted in part TSM's Motion to Dismiss, and denied in part and granted in part STS's Motion to Dismiss. Dkt. No. 48.

7. FMS filed a Second Amended Complaint on July 30, 2021. Dkt. No. 49.

8. STS filed a Counterclaim against FMS and a Crossclaim against SGR on August 13, 2021. Dkt. No. 51.

9. However, on November 17, 2021, SGR Energy Inc. ("SGR") filed a *Notice of Suggestion of Bankruptcy* [Dkt. No. 60], wherein SGR advised this Court that it filed for Bankruptcy in the United States Bankruptcy Court for the Southern District of Texas, Victoria Division styled as *In re SGR Energy, Inc.*, Case No. 21-60090 (CML) (the "Bankruptcy Action").

10. As a result of the Bankruptcy Action and pursuant to Title 11 U.S.C. § 101, this Court entered an order staying this lawsuit on November 30, 2021 (the "Stay") which terminated all pending deadlines. Dkt. No. 61.

11. The case was stayed for several months.

12. During the pendency of the Bankruptcy Action, SGR and TSM's counsel withdrew from this action, and Brendon Singh appeared as their new counsel of record on January 21, 2022. Dkt. Nos. 62-63.

13. The Bankruptcy Action was dismissed on January 21, 2022. *See Bankruptcy Action Order Dismissing Case* at Dkt. No. 64-1.

14. As a result of the dismissal of the Bankruptcy Action, FMS filed an Unopposed Motion to Lift the Stay on February 22, 2022, which was granted by the Court on February 25, 2022. Dkt. Nos. 64 and 65.

15. On March 16, 2022, after the Stay was terminated, this Court signed an Order Entering Amended Discovery Schedule and Trial Settings. Dkt. No. 69.

16. However, when discovery resumed, SGR and TSM became non-responsive, failed to respond to discovery, and ignored attempts to confer by telephone and e-mail. In contrast, FMS and STS attempted to engage in written discovery, schedule depositions, and work through discovery disputes.

17. Over the past months, FMS and STS also attempted to confer regarding potential resolutions for this case, which were unsuccessful. Thus, FMS and STS plan to continue discovery in this case, but need additional time to complete discovery, to obtain the Court's assistance if necessary in resolving discovery matters, including obtaining further discovery from SGR and TSM, and to meet upcoming deadlines, including FMS's expert deadline on August 29, 2022.

18. Thus, due to the impact of the Stay on discovery efforts, SGR and TSM's non-responsiveness, and the Filing Parties' unsuccessful attempts to reach a settlement, the Filing Parties respectfully seek the entry of an order entering the Second Amended Scheduling Order with new deadlines, attached hereto as **Exhibit A**.

19. The entry of a Second Amended Scheduling Order will allow the Parties to complete additional discovery, conduct depositions, present motions and prepare for trial.

20. This Motion for Entry of a Second Amended Scheduling Order is not sought for purposes of delay, but so that justice may be done.

WHEREFORE, PREMISES CONSIDERED, the Filing Parties respectfully request that this Court enter the Second Amended Scheduling Order attached hereto as **Exhibit A**.

Dated this 16th day of August, 2022

Respectfully submitted,

/s/ Yasser A. Madriz

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CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2022, a true and correct copy of the foregoing document was served via ECF on all counsel of record.

/s/ Yasser A. Madriz
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